

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

**CIVIL MINUTES**

<b>Date:</b> September 21, 2020	<b>Time:</b> 5 hrs., 45 mins. 9:00 a.m. to 2:45 p.m.	<b>Judge:</b> WILLIAM H. ORRICK
<b>Case No.:</b> <a href="#">19-md-02913-WHO</a>	<b>Case Name:</b> Madison County Public Schools v. In Re: Juul Labs, Inc., Marketing, Sales Practices	

**Attorneys for Plaintiff:** Dena Sharp, Ellen Relkin, Dean Kawamoto, Sarah London, Andrew Kaufman, Sabita Soneji, Scott Grzenczyk, Tyler Hudson, and Adam Davis

**Attorneys for Defendant:** Renee D. Smith, Peter A. Farrell, Gregory P. Stone, Michael J. Guzman, John C. Massaro, Mitchell B. Malachowski, Bethany W. Kristovich, and Daniel B. Levin

[Counsel listed above are counsel who addressed the Court; additional counsel were in attendance].

**Deputy Clerk:** Jean Davis

**Court Reporter:** Ruth Levine Ekhaus

**PROCEEDING**

Motion hearing and case management conference conducted via videoconference.

**Motions Hearing:** Counsel received the Court's tentative opinions regarding the motions and the Court heard argument on motions to dismiss. Matters taken under submission. Written order to follow.

**Case Management Conference:** The Court will adopt the Second Amended CMO No. 3, the proposed CMO regarding supplemental Plaintiff Fact Sheets and Retailer Defendant Fact Sheets, and the proposed order extending alternative service.

The Court asks Co-lead plaintiffs how they suggest the pending motions to dismiss without prejudice for failure to comply with CMO No. 8 (Dkt. Nos. 852, 862, and 905) be handled. Co-Lead plaintiffs take no position with respect to the dismissals of cases where plaintiffs have sought an unlimited further extension of time (4 plaintiffs/cases) or have not responded. Defendants argue that because plaintiffs have had over five months to submit the PFS and have had repeated notice about the need for compliance with CMO No. 8, those cases should be dismissed without prejudice now. The Court agrees. If plaintiffs covered by the motions at Dkt. Nos. 852, 862 and 905 do not submit substantially complete Plaintiff Fact Sheets on or before

**October 6, 2020**, each of those plaintiffs/cases will be dismissed WITHOUT PREJUDICE. Defense counsel shall e-file and email [WHOp@cd.uscourts.gov](mailto:WHOp@cd.uscourts.gov) a proposed order specifically identifying the cases to be dismissed without prejudice on October 7, 2020.

*Lexecon* issues are then discussed. Counsel shall continue to meet and confer and attempt agree on a solution that allows for the trial of representative personal injury cases over which this Court can assert jurisdiction in the Northern District of California as bellwethers. If the parties cannot agree, they shall submit competing proposals and/or an agreed-to briefing schedule for discussion at the next Case Management Conference on October 16, 2020.

The parties shall also meet and confer to agree on a process to allow the Court to identify its “randomly selected” 12 cases for the bellwether pool, and submit the agreement or competing proposals for discussion at the October 16, 2020 Case Management Conference.